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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/625,463	07/22/2003	Mark Pike	14031.1US01	9154
23552	7590	01/26/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			DIXON, MERRICK L	
			ART UNIT	PAPER NUMBER
			1774	
DATE MAILED: 01/26/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/625,463

Applicant(s)

PIKE

Examiner

Merrick Dixon

Art Unit

1774

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 09 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-58 is/are pending in the application.
- 4a) Of the above claim(s) 45-53 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-44, 54-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.


**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

  
**MERRICK DIXON**  
**PRIMARY EXAMINER**

**Attachment(s)**

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

Art Unit: 1774

1

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2

Claims 1-44 and 54-58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Evans (US 6616971 B2) in view of Shaw et al (US 4643940).

The cited primary reference to Evans teaches the basic claimed invention including a composite structural material comprising a nylon fiber of specific diameter dispersed in a fused matrix – col 1, lines 28-35; col 3, lines 24-42; col 6, lines 4-11; col 6, lines 49-53; col 8, lines 51-55; col 6, lines 45-53; col 7, lines 24-37. The reference teaches flexurel properties- Table 1. Although the primary reference teaches fiber sizes( col 7, lines 59-62; Fig 4. ), it fails to expressly teach the claimed fiber length. The secondary reference to Shaw et al, however, teaches that it is known in the art to form similarly fibrous impregnated resin articles as taught by the primary reference with fiber of similarly claimed dimensions- col 1, lines 40-48; col 3, lines 36-45. It is noted the secondary reference teaches carpet material in col 7, lines 40-43. It would have been obvious to one of ordinary skill in the art at the time the invention is made to facilitate the primary reference with similarly claimed lengths- fibers, in the absence of unexpected results, motivated by the desire to produce articles of desired

Art Unit: 1774

characteristics/properties—col 2, lines 66-69. Concerning claims 18 and 40, the secondary reference teaches dye additives in col 4, lines 34-36. concerning claims 20 and 42, the primary reference teaches fiber dimensions, also, col 6, lines 50-53. concerning claims 19 and 41, the secondary reference teaches fiber thickness in col 8, lines 5-6; col 9, lines 48-51. Both reference teaches flexural properties for their respective fiber material( primary reference, col 12, Table 1; secondary reference, col 3, lines 13-15. the primary reference teaches fiber diameter in col 7, lines 16-25 as required by claims 5,21 and 25. concerning claims 13,14,15,16, and 35-38, both reference teaches strengths characteristics for their respective material( primary reference, col 4, lines 46-51; secondary reference, col 2, lines 66-68). It is noted the reference teaches manipulation of the included material to obtain desired properties. Concerning claims 17 and 39, it is submitted such water absorption properties could also be obtained via manipulation of the included material of the resultant product, in the absence of unexpected results. Concerning claims 2-4, 8-11,22,28,56,23,29,57,24,30 and 58, it is submitted both references teaches the claimed nylon material( see above; also see references), it is respectfully submitted, as relating to the amounts thereof, the specifically claimed amounts would have been obvious in the cited reference in the absence of unexpected results specifically as the references teach adding specific amounts of specific material to effect and impart desire product characteristics- see above. Additionally, such claimed material amounts would have been obvious in the claimed references, if not taught, because it has long being held in the art that where the general conditions of a claim are disclosed in the prior art, as is the instant situation,

Art Unit: 1774

discovering the optimum or workable range involves only routine skill in the art. In re Aller, 105 USPQ 233.

3

Applicant's arguments filed 11-9-05 have been fully considered but they are not persuasive. Applicants argue that the Evans reference teaches high strength fibers, even though the reference teaches polyaramide which could include nylon fibers. Applicants further argue that Shaw et al reference teaches fiber structures. Applicants further argue that the Shaw et al reference fails to teach the specific combination of nylon and polyolefin. Applicants finally argue that the "chopping" step is absent in the cited references. Applicants concluded that the examiner employed hindsight in rejecting the claims. The examiner disagrees with all of the foregoing arguments. First, the reference teaches types of claimed fibers. The reference does not exclude nylon fibers and nylon fibers are indeed included in the class of polyaramide fibers disclosed. In regards to the Shaw et al lack of teachings, the examiner respectfully remind applicants that the respective references are cited for specific teachings, not thereof. The examiner further respectfully remind applicants that the instant application is directed to article limitations. Accordingly, it is submitted and such "chopping" of the references' fibers, would have been obvious, if not taught and in the absence of unexpected results. Finally, concerning hindsight application as contended, the examiner respectfully remind applicants that any judgement on obviousness is in a sense necessarily a reconstruction based on hindsight reasoning. But so long as it

Art Unit: 1774

takes into account only knowledge which was within the level of ordinary skill at the time the claimed invention was made , and does not include knowledge gleaned only from the applicants disclosure, such a reconstruction is proper. In re McLaughlin, 443 F.2d 1392; 170 USPQ 209 (CCPA 1971).

4

This application contains claim 46-53 drawn to an invention nonelected with out traverse in Paper No. 5-31-05. A complete reply to the final rejection must include cancellation of nonelected claims or other appropriate action (37 CFR 1.144) See MPEP § 821.01.

5

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Art Unit: 1774

6

Applicants who wish to send a facsimile (draft copies) for the examiner's immediate review can do so by using the Examiner's personal fax number at 571-273-1520. The faxing of all papers must conform with the notice published in the Official Gazette, 1096

O.G. 30 ( November 15, 1989). **NOTE: All facsimiles sent to the examiner's**

**personal fax number should be in draft-forms and will be treated as informal.**

**Same facsimiles will not be entered in the related applications unless**

**otherwise agreed and noted by the examiner.**

**The fax number for all other fascimile is 571-273-8300.**

Information about **the status of an application** may be obtained from the Patent Information Retrieval system (**Private PAIR**).

Status inquires for **published applications** may be retrieved from either **Private PAIR** or **Public PAIR**. Questions about the PAIR system should be directed to the Electronic Business Center at **866-217-9197**.

Any questions concerning the instant communication should be directed to Examiner Dixon, at 571-272-1520, Mondays, Wednesdays and Thursdays, between 12 noon and 8 PM, eastern time .

A handwritten signature in black ink, appearing to read 'Merrick Dixon', with a stylized, flowing script.

Merrick Dixon

Primary Examiner

Group 1700